In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 7 of 2003

Rakesh Grower S/o Sri Narain Prasad Grover R/o 4 Ram Kishore Road Civil Lines Delhi .....Revisionist.

Vs.

1. State of Uttaranchal,
2. Sessions Judge, Rudrapur ……..Respondents.

Hon'ble Irshad Hussain, J.

Heard Smt. Pushpa Joshi learned counsel for the revisionist and Sri K.S.Rautela learned Brief Holder and perused the record.

2- By means of this revision petition the order passed by the Sessions Judge under section 228 of the Code of Criminal Procedure passed in sessions trial no. 388/2002 has been challenged. On finding sufficient ground for presuming that the accused-revisionist has committed offences under sections 498-A, 304-B I.P.C. and section ¾ of the Dowry Prohibition Act the learned Sessions Judge proceeded to frame the charges accordingly against him.

3- Learned counsel for the revisionist submitted that the revisionist is the brother-in-law of the deceased Smt. Jagpreet Kaur and since he was not present when the actual occurrence took place charge under section 304-B I.P.C. should not have been framed against him. Learned counsel also submitted that no specific allegation was made against the revisionist in the F.I.R. and further that the deceased herself has not made any insinuation against the revisionist in the diary maintained by her. The revisionist as stated above was also charged under section 498-A I.P.C. and section ¾ Dowry Prohibition Act and since the propriety of the framing of these charges has not been challenged the above argument per se is self-contradictory in view of the fact that there had been allegation against the revisionist that he was also responsible for the ill-treatment of the deceased for and in connection with the dowry demand and in a situation like this his physical presence at the scene of the actual incident when the deceased met her un-natural death was not necessary. The reason is that if one abet the offence of dowry death he need not be present at the actual scene of the occurrence and therefore there was absolutely no illegality if on the basis of the material on record and the evidence collected during investigation the

learned Sessions Judge decided to frame charge under section 304-B I.P.C. also against the revisionist.

4- For the reasons aforesaid the revision is devoid of merit and is here dismissed.

(Irshad Hussain, J.)

Dated: 05-05-2004
ISB